

**§ 120.923 What are the policies on subordination?**

(a) Financing provided by the seller of Project Property must be subordinate to the 504 loan. SBA may waive the subordination requirement if the property is classified as "other real estate owned" by a national bank or other Federally regulated lender and SBA considers the property to be of sufficient value to support the 504 loan.

(b) A Borrower is eligible for a 504 loan even if part of the Project financing is tax-exempt. SBA's lien position must not be subordinate to loans made from the proceeds of the tax-exempt obligation.

**§ 120.924 Prepayment of subordinate financing.**

The Borrower must not prepay any Project financing subordinate to the 504 loan without SBA's prior written consent.

**§ 120.925 Preferences.**

No Third Party Lender shall establish a Preference.

**§ 120.926 Referral fee.**

The CDC may receive a referral fee from the Third Party Lender if the CDC secured the lender for the Borrower under a written contract. The Borrower cannot pay this fee. If a CDC charges a referral fee, the CDC will be construed as a Referral Agent under part 103 of this chapter.

504 LOANS AND DEBENTURES

**§ 120.930 Amount.**

(a) Generally, a 504 loan may not exceed 40 percent of total Project cost plus 100 percent of eligible administrative costs. For good cause shown, SBA may authorize an increase in the percentage of Project costs covered up to 50 percent. No more than 50 percent of eligible Project costs can be from Federal sources, whether received directly or indirectly through an intermediary.

(b) Generally, the minimum 504 loan must be \$50,000, although, upon good cause shown, SBA may permit a 504 loan as small as \$25,000. The amount of the Debenture must equal the amount of the 504 Loan plus administrative costs.

(c) Upon completion of the Project, the Debenture amount will be reduced by the amount that the unused contingency reserve exceeds 2 percent of the anticipated Debenture.

**§ 120.931 504 lending limits.**

The outstanding balance of all SBA financial assistance to a Borrower and its affiliates under the 504 program covered by this part must not exceed \$750,000 (\$1,000,000 if one or more of the public policy goals enumerated in § 120.862(b) applies to the Project).

**§ 120.932 Interest rate.**

The interest rate of the 504 Loan and the Debenture which funds it is set by the SBA and approved by the Secretary of the Treasury.

**§ 120.933 Maturity.**

The term of a 504 Loan and the Debenture which funds it shall be either 10 or 20 years.

**§ 120.934 Collateral.**

The CDC/SBA takes a junior lien position (usually a second lien) on the Project collateral. In rare circumstances, collateral other than the Project collateral may be accepted by SBA. Sometimes secondary collateral is required. All collateral must be insured against such hazards and risks as SBA may require, with provisions for notice to SBA and the CDC in the event of impending lapse of coverage.

**§ 120.935 Deposit.**

At the time of application for a 504 loan, the CDC may require a deposit from the Borrower of \$2,500 or 1 percent of the Net Debenture Proceeds, whichever is less. The deposit may be applied to the loan processing fee if the application is accepted, but must be re-funded if the application is denied. If the small business withdraws its application, the CDC may deduct from the deposit reasonable costs incurred in packaging and processing the application.

**§ 120.936 Subordination to CDC.**

SBA, in its sole discretion, may permit subordination of the Debenture to any other obligation of the CDC, except debt incurred by the CDC to obtain